

**From:** harry emlet  
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The Department of Justice should hold to the revised proposed Final Judgment to which Microsoft has tentatively agreed and reject the requests for other and further remedies requested by the states continuing to oppose the judgment.

I am dismayed at the persistence intemperate misrepresentations by those several key industry leaders who so ardently seek to diminish the dominant role of Microsoft and if possible replace it. They piously attribute their efforts to their interest in the welfare of the consumer, when in fact it is the average consumer, individual and corporate, who would suffer most should Microsoft be greatly diminished or (in the inevitably lengthy interim) should Microsoft be eventually replaced. They also claim that Microsoft makes it more difficult for entrepreneurs to develop and market innovative products when in fact the opposite is true and their real problem is that they seek the dominance that Microsoft now has and cannot keep up with the innovative pace of Microsoft's continuing evolution of its products. The challengers make these representations directly and through the Attorney Generals of selected states.

The claim of harm to Netscape, for example, is particularly false. Netscape deliberately configured its browser so that when it was used within Windows as part of non-Microsoft application software it would immediately take over all web browser functions. (I personally was so irritated by repeatedly having to counter this latter tactic that I finally gave up in disgust and removed Netscape from my system along with the application that required it.) The position of those pretending that Microsoft was the culprit in the demise of Netscape blissfully ignores both the technological character of the industry, the needs of the average individual and corporate user, and the specific technical issues that are relevant to the case and the remedy.

If the continued challenges to Microsoft prevail it will seriously harm the consumer, will undermine the lead role which the United States now holds throughout the world as a result of the proliferation of Microsoft products worldwide, and will thereby decrease the present ease of communication internationally made possible by the software commonality that is a direct result of the widespread proliferation of Microsoft products. The mantra that increased competition at any cost is always better in the long run is a naive article of faith that simply does not apply in this particular case where what the challengers are in effect demanding is to cripple Microsoft's ability to innovate in order that they, the challengers, can gain entrepreneurial advantage. They are opposing rather than advocating a level playing field. While I am fully convinced that, in general, greater competition is by far the lesser of two evils, there are clear exceptions and this is one of them. The average individual and corporate user does not want to have to deal with multiple incompatible operating systems and wishes to have basic applications integrated as fully as possible with that operating system. Nor do most of the application developers want to have to deal with the increased costs and complexities introduced by a multiple operating system environment. There is nothing now that prevents a truly innovative developer from designing and marketing an alternative operating system and supporting applications. However, in order for to be successful in the market place the design must be one that will make switching by the consumer cost effective. For that to happen the alternative offered will have to stand out head and shoulders above Microsoft's product so that the considerable costs of the conversion will be justified. So far the alternatives offered have had only modest advantages coupled with distinct disadvantages. This is likely to continue to be the case as long as Microsoft continues to advance at the same rapid pace the technological and functional character of its product. Unable to outrun Microsoft, its would-be competitors seek to hamstring Microsoft in ways that will slow its progress to where it can be overtaken. Microsoft has provided in its operating system a continually evolving, backward compatible, software standard that has been a crucial factor in facilitating the adoption by both businesses and individuals of computing that permits near universal and highly efficient interaction among all participants at steadily reducing costs in user time and money.

I began my career in 1955 as a programmer on the very first of the large electronic computers introduced by IBM. I have worked with computers in one capacity or another (as an analyst, manager, and corporate executive) ever since in the areas of both national defense systems in support of the Air Force and other Department of Defense agencies and in health systems in support of the Centers for Disease Control, the National Institutes of Health, and other health agencies. As a retired professional I work with five desktop computers in my home. What I and many others, whether independent or corporate users, want in our computers is commonality of software among our own computers and those with whom we correspond electronically. We greatly prefer integrated systems from a single source that keeps to a minimum the investment of our time in resolving conflicts between operating systems and applications. Microsoft through constant innovation has done a superb job of meeting that need. It is obviously not perfect but it demonstrated a willingness to respond to the needs of its users. The innovative pace that Microsoft has maintained in the incredibly rapidly evolving technological environment could be achieved by another organization only if that organization could displace Microsoft and then become as dominant as Microsoft is now. That dominance is essential if the ordinary user and the average business user are not to be subject to great losses in productivity and efficiency in dealing with multiple operating systems none of which achieves dominance. And even if in time another organization was eventually to succeed in achieving a dominant position, the transition burden and costs, both real and opportunity costs, to users would be enormous.

The loss of compatibility between computer systems, the heart of which is the operating system, is devastating for the small operator and can be incredibly expensive for the average large corporate operator. The idea that seriously shackling Microsoft is going to make things easier and less costly for the consumer is naive in the extreme. It will inevitably do the opposite. There are enormous opportunities for innovative software designers to develop programs that work within the dominant Microsoft operating system as is well demonstrated by the proliferation of such ad hoc software. The very fact that the Microsoft operating system is dominant greatly facilitates continuation of such proliferation.

The Department of Justice needs to continue to keep clearly in focus what is in the best short and long term interests of the consumer rather than what will promote the private agendas of the industry warlords, present or aspiring, in their relentless search for greater power and fortune.

Let stand the revised proposed Final Judgment. Terminate these endless challenges, promptly implement the remedies, let the developers and entrepreneurs move on with their evolution of better and better systems within the Microsoft environment, and let us users continue to move ahead with confidence in the continued forward and backward compatibility of what we produce within the present and future computing environment.

Very much needed as a follow-up, is a thorough reassessment of the antitrust laws in the light of the present very different and rapidly evolving technological environment, the critically related pace of innovation, and the character of the related industries and its users

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